

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

RANDY SOWELL,

Plaintiff,

-against-

NYSDOCCS ANTHONY J. ANNUCCI, et al.,

Defendants.

22-CV-6538 (LTS)

ORDER OF DISMISSAL

LAURA TAYLOR SWAIN, Chief United States District Judge:

Plaintiff, while detained in the Vernon C. Bain Center (“VCBC”), filed this *pro se* action under 42 U.S.C. § 1983, alleging that his multiple detentions pursuant to parole warrants were unlawful. On June 26, 2023, the Court dismissed the action for failure to state a claim but granted Plaintiff 60 days’ leave to replead two discrete claims in a second amended complaint. (ECF 12.) That order stated that failure to file a second amended complaint within the time prescribed would result in the Court entering judgment dismissing the action for the reasons specified in the June 26, 2023 order. Because Plaintiff failed to file a second amended complaint within the prescribed time, judgment was entered on September 25, 2023. (ECF 13.)

On October 20, 2023, the court received from Plaintiff a letter in which he asserted that he was unable to respond to the Court’s June 26, 2023 order granting him leave to file a second amended complaint because staff members from the New York City Department of Correction confiscated his legal papers. (ECF 14.) On October 30, 2023, the Court construed the letter as a motion for reconsideration and granted it. (ECF 17.) The Court vacated the September 25, 2023 civil judgment, reopened this action for further proceedings, and granted Plaintiff an additional 30 days’ leave to submit a second amended complaint as directed by the Court’s June 26, 2023 order. (*Id.* at 3-4.)

On November 28, 2023, the court received a postcard from Plaintiff, in which he asserted that he “was extradited to New Jersey from Rikers Island where [his] constitutional rights are being further violated, and that [he] mailed [his] second amended claim on 11-10-23 from Rikers GRVC.” (ECF 18.) Because the court had not received the second amended complaint that Plaintiff claimed that he mailed while he was still detained at Rikers Island, on January 3, 2024, the Court granted him an additional 30 days’ leave to file a second amended complaint that complied with the Court’s June 26, 2023 order. (ECF 19.) Plaintiff has not filed a second amended complaint. Accordingly, the Court dismisses this action for the reasons set forth in the June 26, 2023 order, and declines, under 28 U.S.C. § 1367(c), to exercise supplemental jurisdiction of any state law claims.

### CONCLUSION

The Court dismisses this action for the reasons set forth in the June 26, 2023 order. All other pending matters in this case are terminated.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

SO ORDERED.

Dated: April 15, 2024  
New York, New York

/s/ Laura Taylor Swain  
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LAURA TAYLOR SWAIN  
Chief United States District Judge